

Exhibit 1



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

NETLIST, INC.

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD, et al.

Defendants.

Civil Case No. 2:22cv-00293-JRG
(Lead Case)

JURY TRIAL DEMANDED

NETLIST, INC.

Plaintiff,

v.

MICRON TECHNOLOGY TEXAS, LLC, et al.

Defendants.

Civil Case No. 2:22cv-00294-JRG
(Member Case)

JURY TRIAL DEMANDED

**DECLARATION OF DANIEL A. TISHMAN IN SUPPORT OF
SAMSUNG'S MOTION TO COMPEL INFORMATION
REGARDING NETLIST'S NEGOTIATIONS WITH SK HYNIX**

I, Daniel A. Tishman, am an attorney at the firm of Fish & Richardson P.C., counsel of record for Samsung. I make this declaration in support of Samsung's Motion to Compel Information Regarding Netlist's Negotiations with SK hynix.

The following is true and correct to the best of my knowledge and belief:

1. Netlist produced NETLIST_SAMSUNG_EDTX00037749, which is titled "Strategic Product Supply and License Agreement" ("the Agreement") and is an agreement between Netlist Inc. and SK hynix Inc. ("SK hynix"). As part of the Agreement, Netlist agreed to dismiss litigation it previously initiated against SK hynix in the Western District of Texas.

2. [REDACTED]

3. Samsung contends the Agreement between Netlist and SK hynix is relevant to damages and the hypothetical negotiation between the parties in this case.

4. On August 7, 2023, Samsung sent a letter to Netlist requesting Netlist to produce documents underlying Netlist's license negotiations with SK hynix, including presentations, correspondence, draft agreements, internal valuations or presentations, or any other document reflecting the value to SK hynix or Netlist of the Asserted Patents. Netlist never provided a substantive written response to Samsung's August 7, 2023 letter.

5. On August 28, 2023, the parties met and conferred about this matter, at which Netlist's counsel stated it does not intend to produce the requested negotiation materials, based on relevance.

6. Samsung also served a subpoena on SK hynix seeking any similar documents that might be in SK hynix's possession, custody, or control. When SK hynix notified Netlist of its intent to produce certain documents, Netlist objected and indicated it planned to file a motion for a protective order and to file a motion to quash the subpoena. As a result, SK hynix has not produced the requested information, citing Netlist's objection.

7. On September 1, 2023, Samsung proposed a compromise whereby Samsung would agree not to seek discovery into Netlist's negotiations with SK hynix that resulted in the Agreement if Netlist committed not to argue that information about these negotiations is required for a reliable apportionment of a portfolio license. Netlist did not agree., requesting a response by September 5, 2023. As of the signing of this declaration, Netlist has not responded to that request.

[REDACTED]

8. Samsung produced a presentation under the bates number SAM-NET00430622.

The presentation indicates that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SAM-NET00430622 at Slide 43.

Signed in Washington, DC, under penalty of perjury, this 5th day of September 2023.

/s/ Daniel A. Tishman